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SEP 29 2005

Public Disclosure Commission

Rob McKenna

ATTORNEY GENERAL OF WASHINGTON

1125 Washington Street SE • PO Box 40100 • Olympia WA 98504-0100

September 28, 2005

Copy

Vicki Rippie
Executive Director
Public Disclosure Commission
P. O. Box 40908
Olympia, WA 98504-0908

RE: Richard Pope 45 Day Letter – Patricia Davis, Citizens for a Healthy Economy

Dear Ms. Rippie:

The Attorney General's Office has received a complaint from Mr. Richard Pope against Patricia Davis and Citizens for a Healthy Economy. The complaint alleges violations of the Public Disclosure Law, Ch. 42.17 RCW, and was filed pursuant to RCW 42.17.400(4). As you know, RCW 42.17.400(4) requires action on the complaint within 45 days of its receipt. In this case, the complaint was received on September 27, 2005. I understand that you have received a copy of the letter and its attachments and as such, have not provided a separate copy.

As is customary with these types of complaints, we are referring the complaint to your agency for investigation. We will await the results of your investigation before proceeding further. In the event the Commission determines that it is appropriate to schedule an administrative hearing, please advise. Otherwise, we would request the Commission's recommendation with the report of investigation. Please note that Mr. Pope has indicated that in the event action is not brought within 45 days, he will bring a citizen's action under RCW 42.17.400.

I have been assigned the file in our office. I am available to answer any legal questions you may have during the course of your investigation.

If you have any questions, please do not hesitate to call me at 753-0543.

Sincerely,

LINDA A. DALTON
Sr. Assistant Attorney General

LAD:mb

cc: Richard Pope
Rob McKenna, Attorney General
Jeff Goltz, Deputy Attorney General

CCTN # 56970

Date Assigned 9/29/05

Assignee: GCE - Linda Dalton

cc: Milt Doumit

Nancy Krier

Public Disclosure Comm.

Richard L. Pope, Jr.
1839 - 151st Avenue, S.E.
Bellevue, Washington 98007

Tel: (425) 747-4463

E-Mail: RPope98155@aol.com

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VIA FAX TO 360-664-0228 AND CERTIFIED MAIL

Honorable Robert M. McKenna
Attorney General of Washington
1125 Washington Street, S.E.
Post Office Box 40100
Olympia, Washington 98504

TOTAL PAGES: 35

Re: Citizen Action Letter, RCW 42.17.400(4)
Patricia J. Davis
Citizens for a Healthy Economy

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Dear Attorney General McKenna:

This letter concerns Patricia J. Davis, a candidate for Port of Seattle Commissioner Position No. 4 in the September 20, 2005 primary election and the November 8, 2005 general election, and Citizens for a Healthy Economy, which is a political committee set up to support the candidacy of Patricia J. Davis during the 2005 election cycle.

I am sending this written notification pursuant to the citizen action provisions of RCW 42.17.400(4) to inform you that I have reason to believe that Patricia J. Davis and Citizens for a Healthy Economy may have violated RCW 42.17.080(2), concerning filing reports of contributions and expenditures. I also have reason to believe that Citizens for a Healthy Economy may have violated RCW 42.17.3691(2), concerning electronic filing of campaign finance reports when annual expenditures of at least \$10,000 are anticipated.

I am filing this as a citizen action letter, instead of a mere complaint with the Public Disclosure Commission, as Patricia J. Davis and Citizens for a Healthy Economy appear to be willfully disregarding their requirements for filing campaign finance reports. Over \$200,000.00 has been raised to date to support the candidacy of Patricia J. Davis, between her own campaign and the efforts of the Citizens for a Healthy Economy political committee. The Port of Seattle is an important political entity, representing 1.8 million residents of King County, and imposing \$62.7 million in annual property taxes for subsidy of its operations. It is outrageous that such expensive campaign efforts for this important office can be done without any reasonable attempt at proper campaign finance reporting.

I am hoping that, between your office and the Public Disclosure Commission, immediate efforts can be undertaken to ensure that Patricia J. Davis and Citizens for a Healthy Economy immediately file their overdue campaign finance reports and that they will promptly file their remaining reports when due for the remainder of the 2005 election cycle. It is especially important that, in addition to the overdue seven day pre-primary election report being filed immediately, that the 28 day and 7 day pre-general election reports be filed timely, so that the public may be aware how these campaign funds are being spent. It is also important that Citizens for a Healthy Economy file all previous and future campaign finance reports electronically, so their information is available at once.

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Patricia J. Davis filed a C1 with the PDC on February 14, 2005, seeking re-election to Port of Seattle Commissioner Position No. 4 in the November 8, 2005 general election. Ms. Davis then filed as a candidate for this position in July 2005 and appeared on the September 20, 2005 primary election ballot. Ms. Davis appears to be one of the top two primary candidates and should advance to the November 8, 2005 general election.

Under RCW 42.17.080(2)(a), Ms. Davis was required to file a campaign finance report of contributions and expenditures on August 30, 2005, which was the 21st day before the September 20, 2005 primary election. This report was required to contain information on contributions and expenditures through August 23, 2005, which was the 28th day before the September 20, 2005 primary election.

However, Ms. Davis did not file her C4 campaign finance report until September 18, 2005, which was 19 days past the due date of August 30, 2005. (For some reason, Ms. Davis' C4 campaign finance report appears to include information all the way through August 30, 2005, even though the cut-off date should have been August 23, 2005.) Ms. Davis reported contributions of \$128,086.50 and expenditures of \$56,118.14.

Under RCW 42.17.080(2)(a), Ms. Davis was also required to file a campaign finance report of contributions and expenditures on September 13, 2005, which was the 7th day before the September 20, 2005 primary election. This report was required to contain information on contributions and expenditures through September 12, 2005, which was the 8th day before the September 20, 2005 primary election.

Ms. Davis has not filed this C4 campaign finance report yet. Today's date of September 27, 2005 happens to be 14 days past the due date of September 13, 2005.

Since Ms. Davis has qualified for the November 8, 2005 general election, RCW 42.17.080(2)(a) will require her to file two additional campaign finance reports prior to election day – a 21 day pre-general report on October 18, 2005 covering contributions and expenditures through October 11, 2005, and a 7 day pre-general report on November 1, 2005 covering contributions and expenditures through October 31, 2005.

Citizens for a Healthy Economy filed a C1PC with the PDC on April 29, 2005, stating that it was a political committee intending to support candidates for the Port of Seattle, but did not identify what candidates it would be supporting. On July 10, 2005, Citizens for a Healthy Economy gave a \$10,000.00 contribution to Patricia J. Davis. Citizens for a Healthy Economy did not file an amended C1PC with the PDC until September 6, 2005 to indicate it was supporting Ms. Davis as one of its candidates.

Citizens for a Healthy Economy also concealed its \$10,000.00 contribution to Ms. Davis for an extended period of time by filing incorrect campaign finance reports. On August 11, 2005, Citizens for a Healthy Economy filed a C4 campaign finance report for the period July 1, 2005 to July 31, 2005. This C4 report listed no expenditures at all, even though \$10,000.00 had been contributed to Ms. Davis on July 10, 2005. This same C4 report contained a Schedule A, on which expenditures were required to be listed. This Schedule A also did not contain any mention of the \$10,000.00 contribution to Ms. Davis.

Under RCW 42.17.080(2)(a), Citizens for a Healthy Economy was required to file a campaign finance report of contributions and expenditures on August 30, 2005, which was the 21st day before the September 20, 2005 primary election. This report was required to contain information on contributions and expenditures through August 23, 2005, which was the 28th day before the September 20, 2005 primary election.

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However, Citizens for a Healthy Economy did not file its C4 campaign finance report until September 6, 2005, which was 7 days past the due date of August 30, 2005. Citizens for a Healthy Economy reported contributions of \$96,500.00 and expenditures of \$12,060.21. (At least this C4 report had the correct cut-off date of August 23, 2005.)

Under RCW 42.17.080(2)(a), Citizens for a Healthy Economy was also required to file a campaign finance report of contributions and expenditures on September 13, 2005, which was the 7th day before the September 20, 2005 primary election. This report was required to contain information on contributions and expenditures through September 12, 2005, which was the 8th day before the September 20, 2005 primary election.

Citizens for a Healthy Economy has not filed this C4 campaign finance report yet. Today's date of September 27, 2005 is 14 days past the due date of September 13, 2005.

While not nearly as significant as the most recent tardy or unfiled report violations, Citizens for a Healthy Economy has also filed all its prior campaign finance reports late.

Under RCW 42.17.080(2)(c), when the 28 day and 7 day pre-election reporting rules do not apply, Citizens for a Healthy Economy was required to file a campaign finance report of contributions and expenditures on the 10th day of each calendar month, reporting all contributions and expenditures for the previous calendar month.

The first such report would have been due on May 10, 2005, for the month ending April 30, 2005. However, Citizens for a Healthy Economy did not file this C4 campaign finance report with the PDC until May 13, 2005, which was 3 days past the due date.

The next such report would have been due on June 10, 2005, for the month ending May 31, 2005. However, Citizens for a Healthy Economy did not file this C4 campaign finance report with the PDC until June 14, 2005, which was 4 days past the due date.

The next such report would have been due on July 11, 2005, for the month ending June 30, 2005. However, Citizens for a Healthy Economy did not file this C4 campaign finance report with the PDC until July 15, 2005, which was 4 days past the due date.

The next such report would have been due August 10, 2005, for the month ending July 31, 2005. However, Citizens for a Healthy Economy did not file this C4 campaign finance report with the PDC until August 11, 2005, which was 1 day past the due date.

RCW 42.17.080(2)(a) will also require Citizens for a Healthy Economy to file two additional campaign finance reports prior to election day – a 21 day pre-general report on October 18, 2005 covering contributions and expenditures through October 11, 2005, and a 7 day pre-general report on November 1, 2005 covering contributions and expenditures through October 31, 2005.

Citizens for a Healthy Economy is required to file its campaign finance reports electronically with the PDC under RCW 42.17.3691(2), since it has always expected to spend at least \$10,000.00 during 2005. The initial C3 filed by Citizens for a Healthy Economy on April 29, 2005, when it filed its original C1PC registration form, shows that it had already raised \$20,000.00 in contributions as of April 26, 2005 from various donors.

Unfortunately, with one small exception, every single campaign finance report filed by Citizens for a Healthy Economy with the PDC has been on paper forms, and not electronically. In addition to clearly violating the law, this seriously impacts the public.

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First of all, electronic filing allows ~~Public Disclosure Commission~~ to have instant access to campaign finance reports. Once they are uploaded to the PDC, they are immediately available on the PDC website. By contrast, paper reports must first be mailed, and there is a delay in time for the mail to be received by the PDC, opened by the PDC staff, and posted on the PDC website. This delay can often be three to four days, and sometimes much longer.

Secondly, electronic filing allows all the contribution and expenditure information to be loaded instantly into the PDC searchable database, also available on the PDC website. If reports are filed electronically, the public can do a quick database search to ascertain campaign donors, dates and amounts, as well as campaign expenditures, dates and amounts. This does not happen when paper reports are filed, and the public has to look at each and every individual paper report to ascertain the same information.

These two important public access policies are probably the main reason why the Legislature mandates electronic reporting for campaigns that spend at least \$10,000.00.

I noticed from examining the PDC website that Citizens for a Healthy Economy had failed to comply with the electronic filing requirements. On August 19, 2005, I sent an e-mail to Robert C. Wallace and Michele Radosevich, who were listed as Treasurer and Deputy Treasurer of Citizens for a Healthy Economy on their April 29, 2005 C1PC registration form. I used Mr. Wallace's e-mail address from the C1PC and got the e-mail address of Ms. Radosevich from the Washington State Bar Association website.

My August 19, 2005 e-mail Mr. Wallace and Ms. Radosevich reminded them of the requirement for Citizens for a Healthy Economy to file its campaign finance reports with the PDC electronically. I even included a complete copy of RCW 42.17.3691 in my e-mail. I told them that Citizens for a Healthy Economy had filed all its reports on paper only, that filing electronically was not only the law but also important for public access, and requested them to file all previous and future campaign finance reports electronically. Needless to say, I have received no response from Mr. Wallace or Ms. Radosevich.

Ms. Radosevich did send a letter to the PDC dated September 6, 2005, on her Davis Wright Tremaine law firm stationery, in which she purported to apologize for not filing her previous campaign finance reports electronically. Ms. Radosevich claimed that her failure to comply with the law was due to her lack of familiarity with the electronic filing system. Ms. Radosevich represented that she would be refiling the campaign finance reports electronically as soon as she was able to learn how to file electronically.

To date, Citizens for a Healthy Economy has filed precisely one campaign finance report electronically. This was a C3 contribution report filed electronically on September 8, 2005 showing a single contribution of \$500.00. Obviously, Ms. Radosevich seems to have learned how to operate the electronic filing system. However, Citizens for a Healthy Economy has not refiled any of its previous campaign finance reports electronically, nor did it file anything at all (paper or electronic) for the C4 report due September 13, 2005.

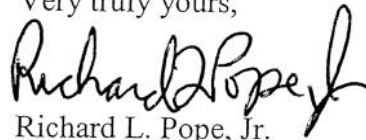
Ms. Radosevich's belated explanation of why Citizens for a Healthy Economy failed to file its campaign finance reports electronically simply is not the least bit credible. Ms. Radosevich is a brilliant and highly successful attorney at one of Seattle's largest and most prestigious law firms. Ms. Radosevich is an expert in election law, and was even retained by your predecessor last year to represent Secretary of State Sam Reed in some major litigation before the Washington Supreme Court regarding the so-called "Montana Primary" election law. To suggest that Ms. Radosevich was unaware of the electronic filing requirement, or was unable to operate its software, simply defies all believability.

If enforcement action is not commenced by filing a civil action in court in the name of the State of Washington, within forty-five days of your receipt of this written notification, I reserve my right under RCW 42.17.400(4) to give a second written notification that I will commence citizen's action in the name of the State of Washington over these matters if there has been further failure to so act within ten days of the receipt of such second written notification, and thereafter commence a civil action on my own initiative in the name of the State of Washington over these matters.

I am also forwarding a copy of this citizen action letter to the prosecuting attorney of King County, since the Port of Seattle is located in that jurisdiction. Further, I am sending a copy to the prosecuting attorney of Thurston County, since the PDC office in Olympia where campaign finance reports are required to be filed is located in that county.

Thank you for your careful attention in this matter.

Very truly yours,


Richard L. Pope, Jr.

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Enclosures:

1. Relevant PDC Filings for Patricia J. Davis
2. My E-Mail of August 19, 2005 to Citizens for a Healthy Economy
3. Relevant PDC Filings for Citizens for a Healthy Economy

DECLARATION

I declare under penalty of perjury under the laws of the State of Washington that the above and foregoing is true and correct to the best of my knowledge and belief.

Signed at Bellevue, Washington on September 27, 2005.


RICHARD L. POPE, JR.

Cc: Vicki Rippie
Executive Director
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